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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,035	09/22/2003	David K. Johansen	62519-00003USPT	7867
30223	7590	11/09/2006		
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606				
			EXAMINER EDMONDSON, LYNNE RENEE	
			ART UNIT 1725	PAPER NUMBER

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/667,035

Applicant(s)

JOHANSEN, DAVID K.

Examiner

Lynne Edmondson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-9, 11-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 11-14 and 16-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 7-9, 11-13 and 25 is withdrawn in view of the newly discovered reference(s) to a multiple probe controller comprising jacks, a programmable logic component and a voltage sensing circuit. Rejections based on the newly cited reference(s) follow.

### ***Double Patenting***

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-3, 5, 6, 14 and 22-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 5-7, 9-12, 15 of copending Application No. 11/440290. Though the conflicting claims are not identical, they are not patentably distinct from each other because both teach a system for providing power to multiple ultrasonic probes using programmable logic devices which detect power status, means for generating power status signals, jacks for connecting the ultrasonic probes, relays for switching, the controller provided within an ultrasonic generator chassis which may be separate and means for switching the power supply. However the '290 claims teach a second subassembly.

It would have been obvious to one of ordinary skill in the art at the time of the invention that multiple assemblies would be an obvious variation of a single assembly. The instant claims are a slightly broader version of the '290 claims. It is noted that instant claim 14 teaches at least two welding probes. It would be obvious to include at least one more subassembly for a large number of probes to control monitoring and switching while keeping the system relatively simple.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 7-9, 11-13, 16-21 and 25 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-9 and 14-22 of copending Application No. 11/214660 in view of Peter (USPN 4746051). The '660 claims teach the invention essentially as claimed but does not disclose the

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signal generated from a voltage sensing circuit, a clock for time-based control, capability of time based control, and a relay coil driver circuit.

Peter teaches an ultrasonic welding control device comprising a programmable logic device (figure 6 and col 6 line 38-col 7 line 7), voltage sensing circuit (col 1 lines 20-26 and col 2 lines 52-60), a clock for time-based control, capability of time based control (col 3 lines 58-68), and a relay coil driver circuit col 4 lines 26-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to employ controller means comprising a voltage sensing circuit, a clock for time-based control, capability of time based control, and a relay coil driver circuit as is known in the art to facilitate fast, smooth switching in a controlled and reliable manner and thereby provide strong, consistent welds.

This is a provisional obviousness-type double patenting rejection.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-3, 5, 6, 14 and 16-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Scarpa (USPN 2995689, controller, relay coils, voltage sensing circuit), Fujieda et al. (USPN 3885902), Landes (USPN 4696425, controller, voltage

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sensing circuit), Vala et al. (USPN 6251203 B1, multiple power supplies), Stumpf (USPN 4401501, multiple power supplies) and Jones (USPN 3029766).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (571) 272-1172. The examiner can normally be reached on Monday through Thursday from 7:00 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lynne Edmondson  
Primary Examiner  
Art Unit 1725

*LE*  
*11/7/86*

LRE